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EXAMINER

AFTERGUT, JEFF H

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



***Claim Rejections - 35 USC § 103***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-6, 8, 16-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Billings (US 6470944) in view of Hansen (US 2002/0102894) and McGahern et al (US 6428874) for the same reasons as expressed in paragraph 5 of the Office action dated July 9, 2008.

***Double Patenting***

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-6, 8, and 16-23 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-19 of U.S. Patent No. 6,470,944 in view of McGahern et al and Hansen for the same reasons as presented in paragraph 7 of the Office action dated July 9, 2008.

***Election/Restrictions***

5. Claims 7 and 9-15 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on April 27, 2006.

***Response to Arguments***

6. Applicant's arguments filed January 9, 2009 have been fully considered but they are not persuasive.

The applicant is advised that the rejections based upon the reference to Wicker have been withdrawn (see the advisory action dated 12-30-08 for a complete explanation, noting that applicant's arguments relating to these rejections have been found to be persuasive. However, the arguments relating to the rejection over Billings have NOT been found to be persuasive and are addressed below.

Applicant essentially takes the position that the reference to Billings failed to teach the application of a coating upon the surface of the belt which was a distinct layer of material disposed thereon. This has not been found to be persuasive. The reference to Billings clearly provided a base structure having both machine direction and cross machine direction yarns therein, see base structure 52 which included warp yarns 45 (machine direction) and weft yarns (cross machine direction). The reference to Billings taught that one needed a fibrous web 60 into the base structure 52 so that the fibers of the web were integrated into the base structure 52 wherein an exterior outside layer of fibers 64. The entire structure is stated to have been impregnated with a liquid resin,

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thereby impregnating the base 52 with the resin as well as the outside layer of fibers 64 with the liquid resin. The reference thus clearly taught a surface layer (layer 64 of fibers and resin) which was a resin coating applied and cured on the surface of the outside surface of the base structure. While the reference did not express that grooves were formed in this exterior layer, inclusion of the same was evidenced by Hansen and McGahern as previously noted. It should be pointed out that applicant's own exterior outside coating disposed on the base structure included a fibrous material which was also needled into the base structure as depicted in Figure 5 of the disclosure.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeff Aftergut whose telephone number is 571-272-1212. The examiner can normally be reached on Monday-Friday 7:30-4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeff H. Aftergut/  
Primary Examiner  
Art Unit 1791

JHA  
January 21, 2009